

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

FEB 17 2012

JAMES W. McCORMACK, CLERK
By: *[Signature]* DEP. CLERK

PLAINTIFFS

WILLIAM and TANYA KINKADE

v.

No. 4:12-cv-101-DPM

**WELLS FARGO HOME MORTGAGE;
and OCWEN LOAN SERVICING, LLC.**

DEFENDANTS

ORDER

The "ex parte emergency motion for preliminary injunction" embedded in the Kinkade's complaint filed late this afternoon is denied without prejudice. "The court may issue a preliminary injunction only on notice to the adverse party." FED. R. CIV. P. 65(a)(1). Construing the motion liberally as one for a temporary restraining order, the Court likewise denies it without prejudice for failure to comply with the Rule. The Court sees no written certification by the Kinkades' lawyer about any efforts to give notice and why it should not be required. FED. R. CIV. P. 65(b)(1). The complaint makes plain that there was, or is, pending state court litigation between the parties. The Kinkades should therefore know who represents the Defendants. The Court

is available to hold a hearing by telephone later today, or Tuesday, with counsel for all parties. If the Kinkades supplement with the needed certification, the Court will reconsider on a TRO. But hearing from both sides engaged in this long-running dispute seems the better course.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

17 February 2011